

NEWS FROM ED MARKEY

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Statement by Representative Edward J. Markey (D-MA) at Press Conference on Torture provisions of H.R. 10 *October 5, 2004*

Today we are asking the question: Is our government only against torture when digital cameras capture torture in action, and the images appear on the front pages of the newspaper? Or is our government against torture, period?

Republicans in the House apparently think that torture done quietly for us by others is something that not only shouldn't be challenged, but actually should be encouraged as long as it's done discreetly. When it comes to torture of U.S. detainees by other countries, Republicans in the House apparently have a "Don't Ask, Don't Take Pictures" policy.

At least that is what the House leadership has proposed in its 9/11 Implementation Bill, H.R. 10. The House Republicans have snuck in provisions that amount to the "offshoring" of torture of suspected terrorists. It's outrageous that House Republicans would put these provisions into the 9/11 Bill behind closed doors when the 9/11 Commission specifically called for the United States to "offer an example of moral leadership in the world, committed to treat people humanely, abide by the law, and be generous and caring to neighbors." Nothing could be farther from the intent of the 9/11 Commission when it issued this recommendation. The Republicans' "torture-by-proxy" provision:

- Violates international treaties that the United States has signed and said it would uphold,
- Undermines the moral integrity of America in the eyes of the world and
- Ensures, in the tradition of reciprocal treatment, that American captives will be tortured by others regardless of the urgency of the pleas of our government or the victim's family.

The provisions I am referring to would authorize the Secretary of Homeland Security to remove an alien to "any country whose government will accept the alien into that country." In essence, the Secretary has unfettered power to send a detainee to any country, even if the detainee isn't a citizen of that country and the country has a known record of torture.

The bill also would severely limit any judicial review of the process. In effect, this would be a "closed door" process where *suspected* terrorists, and I would reiterate *suspected* terrorists, could be shipped off to foreign nations for interrogation under torture without any proof that the detainee is actually a terrorist.

This is a clear violation of the U.N. Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment, which the U.S. Senate ratified. When the Senate ratified this treaty, it explicitly stated that the burden of proof of torture would be a "more likely than not standard." The provisions in this Republican bill purport to put the burden of proof on the detainee to provide "clear and convincing evidence that he or she would be tortured..." But this is a sham. Not only is it an insurmountable and impossible burden to meet in most cases – it most certainly doesn't apply when the purpose of the rendition is to use torture to try to get information out of the detainee!

The President stated in June that he does not condone the use of torture. And just last week, the White House's Legal Counsel sent a letter to the Washington Post saying that the Administration does not support these provisions in this bill. The statement also said that "the United States does not expel, return, or extradite individuals to other countries where the United States believes it is likely they will be tortured."

The truth is, however, the U.S. already has sent suspected terrorists to countries that – according to the State Department's Annual Human Rights Report – practice torture, including Syria and Egypt. The practice is referred to as "extraordinary rendition." The former director of the CIA, George Tenet, has testified that prior to Sept 11 2001, at least 70 persons had been "rendered." The CIA has, so far, refused to answer my request for a post 9/11 update.

The best known example of "rendition" occurred in September 2002 when Maher Arar [MA HER A RAR], a Canadian citizen, was detained and later deported to Syria where he was imprisoned and tortured. Authorities never found any terrorist connections, and he has never been charged or convicted with any crime relating to any terrorist activity. The Republican bill would legitimize the practice of sending suspected terrorists like Maher Arars [MA HER A RARS] to other countries to be tortured.

I have long been concerned with the current rendition practices. Earlier this year I introduced H.R. 4674, a bill that would explicitly bar the U.S. from deporting, extraditing, or otherwise rendering persons to foreign nations known to engage in the practice of torture.

I intend to fight to strike the offshoring of torture provisions in H.R. 10. These provisions on the offshoring of torture add insult to injury. Removing them is a start, but we also need to solve the underlying problem with **current** U.S. policy. It is clear that we need to pass a law to end this practice. My bill, H.R. 4674, would do that.

Torture is morally wrong. Rendering detainees to foreign nations that engage in practices and then turning a blind eye is morally wrong. Moreover, when we torture prisoners – or outsource the job to third parties – we increase the risk that our own soldiers will be mistreated by our enemies. This morally repugnant practice endangers our brave men and women in uniform and should be ended.